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## SENATE BILL No. 426

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-13-12; IC 33-19.

**Synopsis:** Salaries of court officers. Increases the state paid salary of judges, prosecuting attorneys, certain deputy prosecuting attorneys, and state paid magistrates. Establishes a records management fee and a court management fee and provides for the collection of these fees in criminal and civil actions. Provides for the deposit of records management fee revenue in the court clerks' record perpetuation funds and the deposit of court management fee revenue in the state general fund. Provides that money in a clerk's record perpetuation fund may be used for any document management purpose.

**Effective:** July 1, 2001.

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January 18, 2001, read first time and referred to Committee on Judiciary.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 426

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 33-13-12-7.1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7.1. (a) The total  
3 annual salary of each full-time judge of a circuit, superior, municipal,  
4 county, or probate court is ~~ninety~~ **ninety-seven** thousand dollars  
5 ~~(\$90,000)~~ **(\$97,000) after December 31, 2001, and before January**  
6 **1, 2004, and one hundred five thousand dollars (\$105,000) after**  
7 **December 31, 2003,** and any additional salary provided under  
8 IC 36-2-5-14 or IC 36-3-6-3(c). The state shall pay all of the total  
9 salary except for the additional salary, if any, under IC 36-2-5-14 or  
10 IC 36-3-6-3(c). The state shall deposit quarterly the money received  
11 from the counties under subsection (c) in the state general fund.  
12 (b) Before November 2 of each year, the county auditor of each  
13 county shall certify to the division of state court administration the  
14 amounts, if any, to be provided by the county during the ensuing  
15 calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).  
16 (c) When making each payment under subsection (a), the county  
17 shall determine for each judge whether the total of:



- (1) the payment made on behalf of that judge;
- (2) previous payments made on behalf of that judge in the same calendar year; and

(3) the state share of the judge's salary under subsection (a); exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total does exceed the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

- (1) is established by the state;
- (2) applies to a judge who is covered by this section; and
- (3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

SECTION 2. IC 33-13-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) The total annual salary for each justice of the supreme court of Indiana is ~~one hundred fifteen~~ **one hundred twenty-two thousand five hundred dollars (\$122,500) after December 31, 2001, and before January 1, 2004, and one hundred thirty thousand dollars (\$130,000) after December 31, 2003.**

(b) The total annual salary for each judge of the court of appeals of Indiana is one hundred ~~ten~~ **seventeen thousand five hundred dollars (\$117,500) after December 31, 2001, and before January 1, 2004, and one hundred twenty-five thousand (\$125,000) after December 31, 2003.**

(c) The state shall pay the annual salaries prescribed in subsections (a) through (b) from the state general fund.

(d) In addition to said salary, there shall be paid in equal monthly payments on the first day of each month out of any money in the

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general fund of the state treasury not otherwise appropriated, the following annual subsistence allowances to assist in defraying expenses relating to or resulting from the discharge of the justice's or judge's official duties, for which no accounting shall be made by such judge:

(1) Five thousand five hundred dollars (\$5,500) to the chief justice of the supreme court.

(2) Five thousand five hundred dollars (\$5,500) to the chief judge of the court of appeals.

(3) Three thousand dollars (\$3,000) to each justice of the supreme court who is not the chief justice.

(4) Three thousand dollars (\$3,000) to each judge of the court of appeals who is not the chief judge.

(e) The state shall not furnish automobiles for the use of justices or judges compensated under this section.

SECTION 3. IC 33-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A marijuana eradication program fee.

(3) An alcohol and drug services program user fee.

(4) A law enforcement continuing education program fee.

(5) A drug abuse, prosecution, interdiction, and correction fee.

(6) An alcohol and drug countermeasures fee.

(7) A child abuse prevention fee.

(8) A domestic violence prevention and treatment fee.

(9) A highway work zone fee.

(10) A deferred prosecution fee (IC 33-19-6-16.2).

**(11) A records management fee (IC 33-19-6-1.5).**

**(12) A court management fee (IC 33-19-6-18).**

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-14-1-7 requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of fifty dollars (\$50); and

(2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

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(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) First, the clerk shall apply the partial payment to general court costs.
- (2) Second, if there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the partial payment for deposit in the appropriate county user fee fund.
- (3) Third, if there is money remaining after distribution under subdivision (2), the clerk shall distribute the partial payment for deposit in the state user fee fund.
- (4) Fourth, if there is money remaining after distribution under subdivision (3), the clerk shall distribute the partial payment to any other applicable user fee fund.
- (5) Fifth, if there is money remaining after distribution under subdivision (4), the clerk shall apply the partial payment to any outstanding fines owed by the defendant.

SECTION 4. IC 33-19-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) An alcohol and drug services program user fee.
- (3) A law enforcement continuing education program fee.
- (4) An alcohol and drug countermeasures fee.

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(5) A highway work zone fee.

(6) A deferred prosecution fee (IC 33-19-6-16.2).

**(7) A records management fee (IC 33-19-6-1.5).**

**(8) A court management fee (IC 33-19-6-18).**

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the user fee fund established under IC 33-19-8:

(1) The alcohol and drug services program user fee.

(2) The law enforcement continuing education program fee.

(3) The deferral program fee.

(d) The defendant is not liable for any ordinance violation costs fee in an action in which:

(1) the defendant was charged with an ordinance violation subject to IC 33-6-3;

(2) the defendant denied the violation under IC 33-6-3-2;

(3) proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal); and

(4) the defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars (\$52); and

(2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

SECTION 5. IC 33-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) For each action filed under:

(1) IC 31-34 or IC 31-37 (delinquent children and children in need of services); or

(2) IC 31-14 (paternity);

the clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

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- (2) A marijuana eradication program fee.
- (3) An alcohol and drug services program user fee.
- (4) A law enforcement continuing education program fee.
- (5) An alcohol and drug countermeasures fee.
- (6) A records management fee (IC 33-19-6-1.5).**
- (7) A court management fee (IC 33-19-6-18).**

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The marijuana eradication program fee.
- (2) The alcohol and drug services program user fee.
- (3) The law enforcement continuing education program fee.

SECTION 6. IC 33-19-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) For each civil action except:

- (1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- (4) proceedings in paternity under IC 31-14;
- (5) proceedings in small claims court under IC 33-11.6; and
- (6) proceedings in actions under section 6 of this chapter;

the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100), except as provided in subsection (b).

(b) For each proceeding for the issuance of a protective order under IC 34-26-2:

- (1) the clerk shall initially collect **only** thirty-five dollars (\$35) of the civil costs fee from the party that filed the action, or the court may waive the initial thirty-five dollars (\$35) of the civil costs fee for the party that filed the action; and
- (2) upon disposition of the protective order petition under IC 34-26-2, the court may order that:
  - (A) the remainder of the civil costs fee, in the amount of sixty-five dollars (\$65), **and the fees required under subsection (c)** be assessed against the respondent in the action as provided in IC 34-26-2-4 or against the party that filed the action; and
  - (B) the initial thirty-five dollar (\$35) civil costs fee be reimbursed by the respondent in the action to the party that filed the action or assessed against the respondent in the action

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as provided in IC 34-26-2-4.

(c) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A support and maintenance fee.
- (3) A records management fee (IC 33-19-6-1.5).**
- (4) A court management fee (IC 33-19-6-18).**

SECTION 7. IC 33-19-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars (\$35).

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect ~~a document fee~~ **the following fees** if it ~~is they are~~ required under IC 33-19-6:

- (1) A document fee.**
- (2) A records management fee (IC 33-19-6-1.5).**
- (3) A court management fee (IC 33-19-6-18).**

SECTION 8. IC 33-19-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) Except as provided under subsection (c), for each action filed under:

- (1) IC 6-4.1-5 (determination of inheritance tax);
- (2) IC 29 (probate); and
- (3) IC 30 (trusts and fiduciaries);

the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120).

(b) In addition to the probate costs fee collected under this section, the clerk shall collect from the party filing the action ~~a document fee~~ **the following fees** if it ~~is they are~~ required under IC 33-19-6:

- (1) A document fee.**
- (2) A records management fee (IC 33-19-6-1.5).**
- (3) A court management fee (IC 33-19-6-18).**

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 9. IC 33-19-6-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.5. (a) Each clerk shall

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1 establish a clerk's record perpetuation fund. The clerk shall deposit in  
 2 the fund all revenue received by the clerk for the transmitting of  
 3 documents by facsimile machine to a person under IC 5-14-3.

4 **(b) In each criminal and civil action, the clerk shall collect a**  
 5 **records management fee of:**

6 **(1) one dollar (\$1), after June 30, 2001, and before July 1,**  
 7 **2003; and**

8 **(2) two dollars (\$2), after June 30, 2003.**

9 **The clerk shall deposit records management fees collected under**  
 10 **this subsection in the clerk's record perpetuation fund.**

11 **(c) The clerk may use any money in the fund for the following**  
 12 **purposes:**

13 **(1) The preservation of records.**

14 **(2) The improvement of record keeping systems and equipment.**

15 **(3) Any document management purpose.**

16 SECTION 10. IC 33-19-6-18 IS ADDED TO THE INDIANA  
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 18 [EFFECTIVE JULY 1, 2001]: **Sec. 18. (a) This section applies to:**

19 **(1) all proceedings in which a person is convicted of a crime;**  
 20 **and**

21 **(2) all civil proceedings, including ordinance and infraction**  
 22 **violations.**

23 **(b) The clerk shall collect a court management fee of:**

24 **(1) eight dollars (\$8) after June 30, 2001, and before July 1,**  
 25 **2003; and**

26 **(2) sixteen dollars (\$16) after June 30, 2003.**

27 SECTION 11. IC 33-19-7-1 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1. (a) The clerk of a**  
 29 **circuit court shall semiannually distribute to the auditor of state as the**  
 30 **state share for deposit in the state general fund seventy percent (70%)**  
 31 **of the amount of fees collected under the following:**

32 **(1) IC 33-19-5-1(a) (criminal costs fees).**

33 **(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).**

34 **(3) IC 33-19-5-3(a) (juvenile costs fees).**

35 **(4) IC 33-19-5-4(a) (civil costs fees).**

36 **(5) IC 33-19-5-5(a) (small claims costs fees).**

37 **(6) IC 33-19-5-6(a) (probate costs fees).**

38 **(7) IC 33-19-6-16.2 (deferred prosecution fees).**

39 **(b) The clerk of a circuit court shall semiannually distribute to the**  
 40 **auditor of state for deposit in the state user fee fund established under**  
 41 **IC 33-19-9-2 the following:**

42 **(1) Twenty-five percent (25%) of the drug abuse, prosecution,**

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interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

**(e) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the court management fees collected under IC 33-19-6-18.**

SECTION 12. IC 33-19-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-4(a) (civil costs fees).

(4) IC 33-19-5-5 (small claims costs fees).



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(5) IC 33-19-6-16.2 (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-4(a) (civil costs fees).

(4) IC 33-19-5-5 (small claims costs fees).

(5) IC 33-19-6-16.2 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-4(a) (civil costs fees).

(4) IC 33-19-5-5 (small claims costs fees).

(5) IC 33-19-6-16.2 (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

**(f) The clerk of a city or town court shall semiannually**

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- 1 **distribute to the auditor of state for deposit in the state general**
- 2 **fund one hundred percent (100%) of the court management fees**
- 3 **collected under IC 33-19-6-18.**

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